



# MARYLAND BOARD OF PHYSICIANS

BOARD CHAIRMAN: HARRY C. KNIPP, M.D., FACR

EXECUTIVE DIRECTOR: C. IRVING PINDER, JR.

Spring 2005

## BOARD ACTION ON MRI SCANS AND SELF-REFERRAL

**O**n February 25, 2005, the Maryland Board of Physicians approved a Consent Order requiring a six-physician orthopedic group practice to cease and desist from referring patients for MRI scans on machines leased by that group practice. In the Consent Order, the Board found that such referrals violate Maryland's self-referral law in two ways. First, by referring patients to a health care entity in which they had a beneficial interest, the physicians violated § 1-302 (a) of Maryland Health Occupations Article. Second, by billing individuals or third-party payers for health care services provided as a result of those referrals, the physicians violated §1-302 (b). Section 1-306 of that law provides that a practitioner who fails to comply with the provisions of the law "shall be subject to disciplinary action by the appropriate regulatory board."

This action, which was based on complaints made to the Board, is the first time that the Board has formally exercised its responsibility to enforce the self-referral law against professionals licensed by the Board. The Board will likely continue to enforce the provisions of that law. This particular section of the law was discussed in an Opinion of the Attorney General issued on January 5, 2004; the Board publicized that opinion in its

newsletter of Summer 2004. The Board is aware that some physicians or physicians' practices have, in the past, operated under the misconception that the law permitted this particular practice, or that, in general, there would be no enforcement of the self-referral law. The Board wishes all of its professional licensees to be aware, however, that it recognizes its obligation to enforce this law and will do so by the use of its disciplinary authority.

In making the decision that a violation of the law occurred in this case, the Board had to consider whether the services fell under two exceptions: (1) referrals by one health care practitioner to another health care practitioner within the same group practice, and (2) services provided as "in-office ancillary services or tests." The Board did not consider the outside radiology contractors who actually read the MRI scans to be part of the orthopedists' "group practice," since they did not meet the definition of group practice in the code. Also, the Board did not consider the MRI scans to be "in-office ancillary services" because the law specifically excludes MRI scans and CAT scans from the definition of "in-office ancillary services or tests," and in any case "ancillary services or tests" are defined as "basic health care services and tests" personally performed by a physician or by someone who is "employed and personally supervised" by the physician.

The general purpose of the law is to prohibit a physician (or other health care professional) from making a referral from which he or she will financially benefit, in order to remove any financial incentive for overutilization of tests, procedures, or other health care services. In rendering his decision, the Attorney General researched the transcripts of the legislative debate at the time the law was passed so as to best understand legislative intent. In those debates, MRI, in particular, was cited as an example of a service which might offer a very strong incentive to overutilize:

"... they are very, very expensive pieces of equipment and the more expensive the equipment is the more people you've got to refer to it to pay for it."

The self-referral law is not limited to MRI and CAT scan equipment. The law prohibits self-referrals in general, although there is a long list of exceptions. Physicians and other health care professionals who are in any way profiting from their own referrals may wish to consult competent counsel about whether the practice is lawful.

### *In This Issue*

MRI Scans.....	Cover Story
Online Emergency Preparedness.....	2
No Surprises.....	2
Internet Prescribing.....	2
Medical Records.....	2
Board Sanctions.....	3-4
Administrative Fines.....	5
Conflict of Interest.....	5
Renewal Notice.....	6
Professional Rehab Program.....	6

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Chairman Knipp recused himself and did not participate in any Board discussion or consideration of this case. Please see the article on page 5.



## EMERGENCY PREPAREDNESS TRAINING ONLINE—FREE CONTINUING EDUCATION CREDITS

A new online emergency preparedness training program is now available to all active Board licensees. Each of the five modules is approximately 40 minutes long and can be viewed at separate times. MedChi, The Maryland State Medical Society, has approved this activity for 4 Category I AMA PRA credits, and has waived all associated fees. These credits are also applicable to all MBP continuing education requirements for Board licensees. (Note to Allied Health Practitioners: If you wish to apply the continuing education credits for national certification, you should check with national certifying organization to determine whether these credits will be accepted.) Visit [www.mbp.state.md.us](http://www.mbp.state.md.us) and click on "Volunteer Information" to learn more. This program is sponsored by the Maryland Board of Physicians, MedChi, the Department of Health and Mental Hygiene, Johns Hopkins Bloomberg School of Public Health, and the MidAtlantic Public Health Training Institute.

Questions? Call 410-764-4762 or e-mail [jzucco@dnhm.state.md.us](mailto:jzucco@dnhm.state.md.us)

"This activity has been planned & implemented in accordance with the Essential Areas and Policies of the Accreditation Council for Continuing Medical Education (ACCME) through the Joint Sponsorship of MedChi & the Maryland Board of Physicians. MedChi is accredited by the ACCME to provide continuing medical education for physicians. MedChi designates this on-line educational activity for a maximum of 4 Category 1 Credits toward the AMA Physician's Recognition Award. Each physician should claim only those credits that he/she actually spent in the educational activity."

## NO SURPRISES

In a recent article in the Newsletter, the Board recommended that, when possible, patients should be notified at the time of scheduling if the appointment is with a physician assistant rather than a physician. This recommendation was a result of reviewing a number of consumer complaints and was in line with the "no surprises" approach to office management.

However, it should not have focused solely on appointments with a physician assistant. Whenever there are multiple providers (physicians, physician assistants, nurse practitioners, nurse midwives) in an office, the Board recommends that the patient be informed about which provider he/she will see when an appointment is scheduled. This practice addresses the essence of true informed consent. The patient is at a disadvantage if he/she is informed that an alternate provider will perform a procedure only after he/she has already completed a preprocedural prep, taken a day off from work and is on the exam table. Of course, in an emergency situation, the procedure is not necessary or appropriate. Patients are much happier if they know what to expect when they come for an appointment.

## INTERNET PRESCRIBING

The personal computer has had a profound effect on all aspects of American society, including the practice of medicine. Computers are used for administrative tasks such as scheduling and accounting, providing consumers with general health information and facilitating direct communication between physician and patient. There are, however, some inappropriate applications of computer technology.

One inappropriate application is prescribing over the Internet if the physician does not know the patient. In some cases, a patient fills a questionnaire online; the information in that questionnaire is all that the physician knows about the patient. The physician has never met, talked with, or examined the patient. **The Maryland Board of Physicians does not believe that a physician is meeting the standard of quality care if the physician prescribes for an unknown patient over the Internet.** The Board strongly advises you to stay clear, if you are approached to participate in such an arrangement.

## COPIES OF MEDICAL RECORDS

The Board continues to get many questions, from both providers and patients, about requests for copies of medical records. Both Maryland law and the federal Health Insurance Portability and Accountability Act allow disclosure to the patient or person of interest (parent or guardian) but limit disclosure to other parties without patient consent. Current (July 1, 2004) maximum charges under Maryland law are:

Copying (includes labor and supplies)	\$0.63 per page
Mailing	Actual cost to mail
Preparation fee (if records mailed or handed to patient)	\$ 0
Preparation fee (if records sent from one provider to another)	\$19.09

Charges are adjusted annually. Under Maryland law, a provider may not withhold copies because a patient has not paid for health services received. With some exceptions, providers may withhold copies until the copying fee is paid.





**Abdul Hafeez Abbasi, M.D.**, License #: D44155

Area of Practice: General Practice (Elmont, NY)

Reinstatement of license; probation for a minimum of one year and until completion of terms and conditions. The Board believes the physician has reformed his character sufficiently to practice medicine with integrity and has maintained his medical skills. The Board will peer review the physician's practice in Maryland, the results of which must be satisfactory to the Board. Date of Action: March 23, 2005

**Edward F. Aulisi, M.D.**, License #: D43921

Area of Practice: Neurological Surgery (Bethesda, MD)

On or before July 1, 2005, Cease and Desist certain referrals and other terms and conditions. The referrals by the physician for MRI/CT scans utilizing an MRI machine leased by the physician's group practice, such scans to be read by a contractor of the group, are in violation of Maryland Self-Referral laws. Date of Action: February 25, 2005

**Panayiotis Baltatzis, M.D.**, License #: D28949

Area of Practice: General Practice (Baltimore, MD)

Suspension for 6 months; immediately stayed; terms and conditions to be completed within six months; probation for five years subject to terms and conditions. The physician failed to meet standards of quality care and failed to keep adequate medical records in his practice of internal medicine. Date of Action: March 22, 2005

**John W. Barrett, M.D.**, License #: D02781

Area of Practice: Neurological Surgery (Bethesda, MD)

On or before July 1, 2005, Cease and Desist certain referrals and other terms and conditions. The referrals by the physician for MRI/CT scans utilizing an MRI machine leased by the physician's group practice, such scans to be read by a contractor of the group, are in violation of Maryland Self-Referral laws. Date of Action: February 25, 2005

**Susan W. Calianno, P.A.**, License #: C02118

Area of Practice: Physician Assistant (Severn, MD)

Summary suspension of license. The Physician Assistant has not been able to maintain sobriety and to address her impairment and substance abuse issues in regard to alcohol, CDS, and illegal drugs. Date of Action: March 3, 2005

**Susan W. Calianno, P.A.**, Certification #: C02118

Area of Practice: Physician Assistant (Severn, MD)

Summary Suspension continued for six months; thereafter the licensee may appear before the Board to ask that the summary suspension be lifted. Although the licensee appears to have been abstinent from November 2004 to the present, her recent history is that of overwhelming addiction resistant to inpatient and outpatient treatment. If the licensee demonstrates sobriety over a longer period of time and continues to use the resources available to her to maintain sobriety, the Board will review the summary suspension. Date of Action: March 31, 2005

**Max Cohen, M.D.** License #: D175 67,

Area of Practice: General Surgery (Bethesda, MD)

Probation for a minimum of one (1) year and until completion of terms and conditions. The physician failed to meet standards of quality care and failed to maintain adequate medical records in his use of Fine Needle Aspiration and in regard his failure to perform core or excisional biopsies. Date of Action: December 15, 2004

**F. Donald Cooney, M.D.**, License #: D09156

Area of Practice: Neurological Surgery (Bethesda, MD)

On or before July 1, 2005, Cease and Desist certain referrals and other terms and conditions. The referrals by the physician for MRI/CT scans utilizing an MRI machine leased by the physician's group practice, such scans to be read by a contractor of the group, are in violation of Maryland Self-Referral laws. Date of Action: February 25, 2005

**Carol J. Crawford, No License** (Severn, MD)

Denial of Application. The individual provided the Human Resources Department at her hospital four falsified renewal certificates as a Nuclear Medicine Technologist and used the certificate number of another individual in three of the instances. Date of Action: March 24, 2005

**Thomas E. Finucan, Jr., M.D.**, License #: D32395

Area of Practice: General Practice (Port Deposit, MD)

Denial of Reinstatement of licensure and the Board will not entertain any subsequent petitions for reinstatement. The Board found that the physician has failed to gain insight into the nature of his past offense, that it would place the public in too much danger to license him, and thereby has failed to meet his burden of satisfying the Board that he is entitled to reinstatement. Date of Action: March 23, 2005

**Denis Franks, M.D.**, License #: D17419

Area of Practice: General Practice (Lutherville, MD)

Denial of Reinstatement of licensure and the Board will not accept any further applications for reinstatement. The Board remains unconvinced that the physician has the requisite technical skills to practice competently, addressed his past inability to practice quality care, or has recognized the extent of his responsibility for his professional shortcomings. Date of Action: March 23, 2005

**Jeff Jacobson, M.D.**, License #: D29422

Area of Practice: Neurological Surgery (Bethesda, MD)

On or before July 1, 2005, Cease and Desist certain referrals and other terms and conditions. The referrals by the physician for MRI/CT scans utilizing an MRI machine leased by the physician's group practice, such scans to be read by a contractor of the group, are in violation of Maryland Self-Referral laws. Date of Action: February 25, 2005

**Bridget C. Kahntroff, M.D.**, License #: D20788

Area of Practice: Anatomic/Clinical Pathology (Owings, Mills, MD)

Summary Suspension. The Board found that the physician is a danger to the public because of personal substance abuse and engaging in illegitimate and unlawful prescribing practices in order to obtain habituating substances. Date of Action: March 30, 2005

**Benigno R. Lazaro, Jr., M.D.**, License #: D46974

Area of Practice: Family Practice (Baltimore, MD)

Revocation: no application for reinstatement considered for two years. The physician surrendered his license in Ohio; the surrender authorized permanent revocation of his license. The Ohio action was based upon the physician having engaged in sexual misconduct with two patients. The Maryland Board's order is also based on a third patient in Ohio. Date of Action: January 26, 2005



**Zachary T. Levine, M.D.**, License #: D55620

Area of Practice: Neurological Surgery (Bethesda, MD)

On or before July 1, 2005, Cease and Desist certain referrals and other terms and conditions. The referrals by the physician for MRI/CT scans utilizing an MRI machine leased by the physician's group practice, such scans to be read by a contractor of the group, are in violation of Maryland Self-Referral laws. Date of Action: February 25, 2005.

**John Wei-Chieh Lin, M.D.**, License #: D58918

Area of Practice: General Practitioner (Chicago, IL)

Revocation. The Board found the physician guilty of unprofessional conduct; willfully making or filing a false report or record in the practice of medicine; and selling, prescribing, giving away or administering drugs for illegal or illegitimate purposes, based on actions including but not limited to, removing hospital supplies in order to administer CDS intravenously to an addicted friend and arranged to have the friend's blood tested and results filed under the name of some other inpatient in the hospital whom the physician could not recall. Date of Action: February 23, 2005

**Margo Sheila McBride, M.D.**, License #: D45096

Area of Practice: Internal Medicine (Annapolis, MD)

Surrender. The physician decided to surrender her license to avoid further investigation and prosecution of violations of her April 23, 2003, Consent Order, that is, the Board's investigative findings of her relapse with alcohol. Date of Action: April 12, 2005

**Dan K. Morhaim, M.D.**, License #: D24875

Area of Practice: Emergency Medicine (Baltimore, MD)

Reprimand; Probation for a minimum of one year subject to completion of terms and conditions. The physician pre-signed approximately 20 blank forms used for certification of nursing home residents' medical condition. The physician's actions, in pre-signing forms that indicated he had examined a nursing home resident on a date certain, when he had not, constituted the making or filing of a false report in the practice of medicine and unprofessional conduct in the practice of medicine. Date of Action: March 24, 2005

**Frank E. Niechniedowicz, M.D.** License #: D22748

Area of Practice: Anesthesiology (Dunn Loring, VA)

Surrender of license. The physician's decision to surrender his license was based on health issues, the fact that the physician was not practicing medicine, and to terminate the Board's investigation of an Arizona action. Date of Action: March 9, 2005

**Marc S. Posner, M.D.**, License #: D19640

Area of Practice: Family Practice (Baltimore, MD)

Reprimand; Probation for a minimum of 2 years and until certain terms and conditions are met. The physician failed to meet standards of quality care because of his prescribing practices and documentation of physical findings and treatment rationales when prescribing Schedule II Controlled Dangerous Substances. Date of Action: January 26, 2005

**Alexandros D. Powers, M.D.**, License #: D43691

Area of Practice: Neurological Surgery (Bethesda, MD)

On or before July 1, 2005, Cease and Desist certain referrals and other terms and conditions. The referrals by the physician for MRI/CT scans utilizing an MRI machine leased by the physician's group practice, such scans to be read by a contractor of the group, are in violation of Maryland Self-Referral laws. Date of Action: February 25, 2005

**Bannister L. Raines, Jr., M.D.**, License #: D17735

Area of Practice: Internal Medicine (Towson, MD)

Summary Suspension. The physician's consumption of alcohol and subsequent arrest for driving while under the influence of alcohol on an evening when he was in on call status constitutes a substantial likelihood of a risk of serious harm to the public health, safety or welfare. Date of Action: January 27, 2005

**Bannister L. Raines, Jr., M.D.**, License #: D17735

Area of Practice: Internal Medicine (Towson, MD)

Revocation. The physician violated the Board's October 23, 2003, Order of Reinstatement/Order of Probation because of his current relapse, while on-call, and his repeated history of relapses in connection with his chemical dependency issues. Date of Action: March 3, 2005

**Alen J. Salerian, M.D.**, License #: D15702

Area of Practice: Psychiatry (Washington, DC)

Reprimand; Fine of \$5,000; Probation for a minimum of 2 years while licensed in Maryland and until completion of terms. The physician committed unprofessional conduct in the practice of medicine by revealing and widely publicizing the personal psychiatric history of a forensic evaluatee and also engaging in the treatment of the forensic evaluatee. Date of Action: January 4, 2005

**Hanh Thi-My Tran, M.D.**, License #: D57363

Area of Practice: OB/GYN (Baltimore, MD)

Reprimand. The Board found that the physician violated standard of quality care when, as a result of a procedure, a "12 inch" malleable stainless-steel retractor was left in the patient. Date of Action: February 25, 2005

**Robert X. Williams, III, M.D.**, License #: D62991

Area of Practice: General Practice (Columbia, MD)

License granted; probation for 5 years (from date of order) subject to terms and conditions. The physician has a history of chemical dependency, pleaded guilty to a retail theft in 2002, but has entered in a rehabilitation program, has been abstinent since, and has made positive strides in establishing his recovery. Date of Action: April 12, 2005

**Donald C. Wright, M.D.**, License #: D54327

Area of Practice: Neurology (Bethesda, MD)

On or before July 1, 2005, Cease and Desist certain referrals and other terms and conditions. The referrals by the physician for MRI/CT Scans utilizing an MRI machine leased by the physician's group practice, such scans to be read by a contractor of the group are in violation of Maryland self-referral laws. Date of Action: April 14, 2005



# ADMINISTRATIVE FINES

DECEMBER 2004 - APRIL 2005

**Phillip Ginsberg, NMT**, Certification #: N01054

Area of Practice: Nuclear Medicine Technology (Cockeysville, MD)  
Administrative fine of \$500. The individual practiced nuclear medicine technology without a certificate issued by the Board in violation of Md. Code Ann. Health Occ. §14-5B-17(b). Date of Action: April 20, 2005

**Maria V. Giorgakis, MRT**, Certification #: R07382

Area of Practice: Medical Radiation Technology (Baltimore, MD)  
Administrative fine of \$500. The individual practiced medical radiation technology without a certificate issued by the Board in violation of Md. Code Ann. Health Occ. §14-5B-17(a). Date of Action: March 23, 2005

**Angela D. Griffin, NMT**, Certificate #: N01045

Area of Practice: Nuclear Medicine Technology (Baltimore, MD)  
Administrative fine of \$500. The individual practiced nuclear medicine technology without a certificate issued by the Board in violation of Md. Code Ann. Health Occ. §14-5B-17(b). Date of Action: March 9, 2005

**Tyrone Hughley, MRT**, Certificate #: R07179

Area of Practice: Medical Radiation Technology (Washington, DC)  
Administrative fine of \$500. The Respondent practiced medical radiation technology in the State of Maryland prior to his certification, in violation of Md. Code Ann. Health Occ. §14-5B-17(a). Date of Action: January 12, 2005

**Thomas S. Humburg, MRT**, Certificate #: R07365

Area of Practice: Medical Radiation Technology (Gaithersburg, MD)  
Administrative fine of \$500. The individual practiced medical radiation technology without a certificate issued by the Board in violation of Md. Code Ann. Health Occ. §14-5B-17(a). Date of Action: March 9, 2005

**Joy M. McClure, MRT**, Certificate #: R07383

Area of Practice: Medical Radiation Technology (Baltimore, MD)  
Administrative fine of \$500. The individual practiced medical radiation technology without a certificate issued by the Board in violation of Md. Code Ann. Health Occ. §14-5B-17(a). Date of Action: March 9, 2005

**Randee S. Murray, NMT**, Certification #: N01030

Area of Practice: Nuclear Medicine Technology (Dumfries, VA)  
Administrative fine of \$500. The individual practiced nuclear medicine technology in the State of Maryland without a certificate issued by the Board in violation of Md. Code Ann. Health Occ. §14-5B-17(b). Date of Action: February 23, 2005

**Thomas T. Penroach, M.D.**, License #: D12868

Area of Practice: Unspecified (Columbia, MD)  
Administrative fine of \$1,000. The physician practiced medicine with a lapsed license. Date of Action: January 27, 2005

**Lucille G. Sevdalis, MRT**, Certificate #: R07381

Area of Practice: Medical Radiation Technology (Baltimore, MD)  
Administrative fine of \$500. The individual practiced medical radiation technology without a certificate issued by the Board in violation of Md. Code Ann. Health Occ. §14-5B-17(a). Date of Action: March 9, 2005

**Dawn Thomas, NMT**, Certification #: N01035

Area of Practice: Nuclear Medicine (Mechanicsville, MD)  
Fine of \$500. The Nuclear Medicine Technologist practiced without a certificate issued by the Board in violation of Md. Code Ann. Health Occ. §14-5B-17(b). Date of Action: December 15, 2004

## CONFLICTS OF INTEREST BOARD MEMBER RECUSAL

The mission of the Maryland Board of Physicians is to protect the health and safety of Marylanders through its licensure and disciplinary programs. At times, all Board members encounter situations when the interests of the citizens of Maryland may conflict, or may appear to conflict, with the interest of the individual Board member.

Maryland law and regulations recognize that Board members could experience these conflicts. New Board members are provided with information from the State Ethics Commission and must file an Appointee Exemption Disclosure Form. All Board members must also file an annual financial disclosure form.

Regulations require that a Board member recuse from Board proceedings if the proceeding would present a conflict of interest to the member or if the member could not participate fairly and impartially. This comes up most frequently when the Board is considering complaints, investigations, or disciplinary actions. In these cases, the Board member who is recused leaves the room during discussions, does not vote on, and may not discuss the matter with Board members or others.

For instance, Dr. Harry Knipp, Board Chair, is a licensed physician Board-certified in Diagnostic Radiology. He recused himself from all deliberations and decisions in the case described on page 1, since, as a radiologist, he could potentially benefit from a ruling barring non-radiologist physicians from referring patients for tests on MRI equipment owned by these physicians. One of the non-physician Board members also recused himself from those deliberations because he had a personal relationship with one of the parties involved. In other cases, Board members have recused themselves from consideration of cases relating to colleagues with whom they had had a close personal or professional relationship.

While it is not always possible to achieve complete impartiality, the required declarations and disclosures, combined with Board member recusal when their interests might conflict with the public interest, establish a framework for the Board of Physicians to accomplish its functions with fairness and impartiality.



## 2005 PHYSICIAN RENEWALS

Physicians whose last names begin with the letters M-Z must renew their medical licenses by September 30, 2005. Reminder letters will be mailed in late June to the last confidential address the physician supplied to the Board. **Application forms will not be mailed.** Physicians can renew online or download the application form from the Internet, [www.mbp.state.md.us](http://www.mbp.state.md.us) after July 15, 2005.

Physicians are encouraged to renew online, 24 hours a day, 7 days a week. You will be able to update any information which has changed, but you will not have to re-enter information which has not changed. Physicians may use electronic check, VISA or Mastercard, or a paper check along with the printed invoice sent to the Board.

Physicians must earn 50 category I CME credits for renewal. The dates when your credits were earned must fall within the current licensing cycle. For those renewing this year, credits must have been earned between October 1, 2003 and September 30, 2005.

The fastest way to renew is to renew online and pay online. Physicians who send a paper application or those who renew online but send a check for payment will not be renewed until the application is processed and the check is deposited. If the renewal application or check is not postmarked by September 30, 2005, the physician will no longer be licensed to practice medicine in Maryland on October 1, 2005. Physicians practicing without a valid license are subject to fines up to \$50,000.

## PROFESSIONAL REHABILITATION PROGRAM

The Maryland Board of Physicians Professional Rehabilitation Program (PRP) is now established in its permanent home, or the grounds of Spring Grove Hospital Center, in Catonsville. The PRP is for physicians and physician assistants who are suffering from or concerned about substance abuse or physical, emotional, or mental health problems that may interfere with their ability to practice medicine. This program is designed to make evaluation and referral for treatment, if necessary, as easy as possible for the participant. There is no cost for evaluation and referral to either the participant or the employer. The program meets the requirement of the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) for the medical staff to establish a process to identify and manage matters of individual physician health that is separate from the medical staff disciplinary function.

Staff now consists of Burton D'Lugoff, M.D., Medical Director, Joanna Fitzick, L.C.S.W./C., Case Manager, and Kathleen Dickinson, Office Manager. Staff of the program are available to assist in developing Employee Assistance Programs, give presentations on substance abuse, mental health, or to accept workplace or individual referrals.

The PRP's new mailing address is Maryland Board of Physicians Professional Rehabilitation Program, 55 Wade Avenue, Catonsville, MD 21228. The telephone number remains 443-803-4567, and the new fax number is 410-402-8681.

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